

Parliament as a gendered workplace:

Towards a new code of conduct

SUBMISSION TO THE INDEPENDENT INQUIRY
INTO COMMONWEALTH PARLIAMENTARY
WORKPLACES

Australian Political
Studies Association

The Global Institute for
Women's Leadership



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Submission to the Independent Review of Commonwealth Parliamentary Workplaces

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Introduction

Serial revelations of misconduct in the Australian Parliament led the Australian Political Studies Association and the Global Institute for Women's Leadership to bring together stakeholders and academic experts in July 2021 to consider how to address bullying, intimidation, and harassment in the parliamentary workplace. The workshop – 'Parliament as a Gendered Workplace: Towards a New Code of Conduct' – was held at The Australian National University and the program is attached to this submission.

Evidence presented at the workshop confirmed that while there has been a steadily increasing presence of women in the Australian Parliament, both as parliamentarians and staffers as well as in other support roles, many experienced parliament as an unsafe workplace. The intersection of gender, race, and other forms of diversity were seen to compound such negative experience. While diversity had increased, the unwritten norms underlying the culture of parliament had yet to be addressed.

Moreover, there was a lack of confidence in standards of workplace management or in existing processes to deal with complaints. It was clear Australia had fallen behind international standards on parliament as a gender-sensitive and diversity-sensitive workplace, despite signing up to these standards, for example at assemblies of the Inter-Parliamentary Union.

The process adopted for this submission was for workshop participants to be able to make continuous contributions via an online bulletin board (padlet) and for these contributions to be considered in a drafting session. A drafting committee then prepared the submission, which has been endorsed by participants in the workshop listed at the end. There was unanimous agreement on the need for a code of conduct to apply to all those working in parliamentary workplaces and an independent body to oversee implementation of the code and to handle complaints, as well as mandatory workplace training.

We begin our submission with a statement from workshop participants on why a parliamentary code of conduct is important in setting standards. This is followed by a brief introduction to the model code of conduct we propose for consideration by the Review. After presenting the code, we then provide some recommendations relating to how it should be implemented. We give permission for our submission and names to be published on the Commission's website.

Why We Need a Parliamentary Code of Conduct

A healthy democracy is an enduring feature of our nation. Our Parliament should be a symbol of opportunity, integrity, and inclusivity. A place of inspiration and excellence. A safe place and a blueprint for model behaviour. It is unacceptable that women are excluded, harassed, intimidated, and bullied in parliamentary workplaces.

It is unacceptable that women are disengaging politically and losing trust in our democracy. It is unacceptable that women whose gender intersects with other aspects of their identity such as ethnicity, disability, class or sexuality are exposed to even greater risk. It is unacceptable that imbalances of power mean women are pressured into silence or quitting their dream jobs because of a lack of accountability or consequences for perpetrators of harassment, violence, and discrimination.

As diverse Australians we lend our voices to the pursuit of a better Parliament and a stronger democracy. We lend our voices to those who have felt abandoned by the structures and cultures of our political institutions; where gender, race, ethnicity, sexuality, language, age, disability, religion, or economic status have been a source of exclusion for too long. We lend our support to those who have felt intimidated, unsafe, and unheard in our Parliament.

Australia was one of the first nations to begin the process of enfranchising women, but we now lag well behind international benchmarks for gender equality such as the World Economic Forum's Global Gender Gap Index with our collective failure to extend gender equality into the parliamentary workplace. It is time to repair the democratic deficit. We must make our parliamentary workplaces safe for all - for Members, Senators, political, parliamentary and service staff, journalists, visitors, guests, students, and interns.

We believe our Parliament must not merely reflect our diverse society, but lead it. We are standing up to demand change. We expect that all people in our parliamentary workplaces are treated with respect, that all those entrusted with the privilege of elected office act with professionalism and accountability, that the consequences for those who fail to do so are tangible and proportionate, and that those who do experience mistreatment do not face retribution or further trauma in reporting it.

The Adoption of Parliamentary Codes of Conduct

As Professor Sarah Childs argued in the Good Parliament report for the UK House of Commons, Parliaments play an important symbolic role in a society above and beyond their substantive roles. They should embody the principles of equality and fairness and act as a 'role-model' institution. Parliaments should not merely reflect their societies and cultures, but lead them with best practice.

Parliamentary codes of conduct such as those recently drawn up in Canada, the United Kingdom, and New Zealand are an important first step in setting standards. They transcend established practices and unwritten norms such as Westminster traditions of 'robust parliamentary debate' and personal attacks. They make it clear that, for example, sexual harassment or sexual misconduct is inappropriate parliamentary behaviour and will not be tolerated. In the European Parliament members sign a declaration that they will comply with the code of conduct and failure to do so disqualifies an MEP from participating in official delegations.

To date, the Parliament of Australia has avoided taking responsibility for the conduct of its Members and Senators. Privileges Committees of both the House of Representatives (2011) and the Senate (2012) have respectively determined that a code of conduct was not warranted. While there is ministerial code of conduct, there is no code relating to harms experienced in the workplace that applies to all parliamentarians, parliamentary and political staff, service staff, volunteers, and visitors. Our model code of conduct borrows elements from the codes already debated and adopted in comparable parliaments, which extend beyond integrity issues.

The recent Foster Review of the Parliamentary Workplace noted that 'All parliamentarians should clearly articulate that assault, sexual assault, sexual harassment, and serious or systemic bullying and harassment are unacceptable in their workplaces, and act to support that commitment where necessary'. Foster recommended this be done through amending the Statement of Ministerial Standards and Statement of Standards for Ministerial Staff.

The Foster Review focused explicitly on the experiences of parliamentarians and those employed under the Members of Parliament (Staff) Act, rather than all those who work in parliamentary workplaces, but noted the scope of the current Independent Review was broader and should cover others.

Perversely, many laws made by the parliament that hold people to account on issues of harassment and workplace safety do not apply to parliamentarians or their staff. Parliament House and other Commonwealth parliamentary workplaces – including electorate offices and anywhere parliamentary committee meetings are held – are often seen as 'exceptional' but in reality they are workplaces for thousands of people in addition to parliamentarians and Ministerial staff (who by their nature enjoy higher status and profile than many others in these

workplaces) and these people deserve to have the same rights to a safe working environment as all other Australians.

The clear consensus at the expert workshop was that rather than updating specific standards or developing arrangements that apply only to a select group that work in Parliament House, a code of conduct should be introduced to cover all those that are present in parliamentary workplaces – including visitors, non-MoP(S) staff, interns, volunteers and journalists. This approach mirrors that taken in the UK where a Behaviour Code applies to all visiting and working at Parliament.

Our model code of conduct borrows elements from the codes already debated and adopted in comparable parliaments. Such overarching codes of conduct need to be underpinned by detailed harassment, sexual harassment, and bullying policies. If codes are to be taken seriously there also needs to be sanctions for non-compliance – for example, the European model of disqualifying parliamentarians from participation in official delegations is well worth considering in the Australian context

A Code of Conduct for the Parliament of Australia

The Parliament of Australia should be a model workplace, where everybody is treated with respect and courtesy.

Whether you are a visitor or working in Parliament House or elsewhere, there are clear guidelines on how you should be treated or how you should treat others:

- Ensure Parliament meets the highest standards of integrity, courtesy and mutual respect
- Make Parliament a safe and inclusive workplace where diversity is valued
- Show that bullying and harassment, including sexual harassment, are unacceptable
- Speak up about any unacceptable behaviour
- Act professionally towards others
- Participate in training on harassment prevention and office management
- Understand that unacceptable behaviour will be dealt with seriously and independently, with effective sanctions

We need to restore pride in our Parliament and repair the loss of trust that has taken place. Parliament should be a safe place where the diversity of the Australian people can be effectively represented, leading to better policy and practice. For all these reasons, a code of conduct applying to all who work in parliamentary workplaces must be a priority. Next come the processes to ensure the code is implemented.

Oversight and Complaint Handling

There is a clear need not only for a legislated code of conduct but for an independent authority such as a Parliamentary Standards Commissioner to oversee it and support harassment prevention, proper management of complaints and consequences for those who do not uphold the code.

An effective complaints process would provide a flexible, integrated pathway for dealing with workplace issues. A single process that addresses everyday as well as more serious complaints, and also records Incidents that do not proceed to a formal complaint, will ensure people have greater awareness of it and be more likely to use it in more serious cases.¹

Often the process of making a complaint leads to additional trauma and suffering and exhausts the complainant to the point where they feel unable or unwilling to continue to seek justice. Those in parliamentary workplaces face additional barriers and challenges around the political consequences of taking action and the impact on their future career opportunities beyond the Parliament. This highlights the importance of acting quickly and providing ongoing support to complainants after the investigation, to avoid further trauma or retribution.

As found by the Foster Review, it is of the utmost importance that this authority be independent of parliamentarians, political parties, and executive government. The mechanisms and processes adopted by such an authority should be evidence-based, trauma-informed, victim-focused, and underpinned by an intersectional and gendered lens. As with the United Kingdom's Independent Complaints and Grievance Scheme, the complaint-handling authority should use independent experts with specialist knowledge to achieve this purpose.

The complaint-handling authority must be able to investigate both current and historical allegations. Because of its psychological impact, there is often significant time between alleged sexual abuse and the reporting of it. In not providing the necessary powers to investigate historical complaints, the potential for perpetuating injustices is heightened. In the United Kingdom, the power to investigate historic cases has also recognised that this may be an important way to influence current behaviour and employment practice.²

When investigating current allegations of sexual misconduct, harassment, or assault, a uniform system should be consistent in application but also considerate of the specificities of the variety of workspaces to which it will apply (such as the parliamentary precinct versus

¹ See Kieran Pender, *Us Too? Bullying and Sexual Harassment in the Legal Profession*, London: International Bar Association, 2019, pp. 106–07.

² In her report on bullying and harassment of MPs' parliamentary staff in the UK House of Commons, Gemma White QC found that despite the introduction of an independent complaints and grievance scheme, staffers still believed that making a complaint would be career suicide. She concluded that former staffers would be more likely to take advantage of it and this could influence MPs' behaviour and benefit current staff. Access to the scheme for historic cases was duly extended in 2019.

electorate offices). When determining outcomes of investigations, the independent authority must have the power to recommend appropriate sanctions for serious breaches of the code of conduct.

Transparency

The need for transparency in documenting the reporting, and related outcomes, of complaints is paramount not only for cultural change in the workplace, but also for the restoration of both individual and public faith in parliamentary spheres. Annual reporting should therefore indicate both the types of complaints raised, the processes of resolution, and additional data which indicates the satisfaction with procedure and outcome. Such reporting is in line with recommendations from the Fourth national survey on sexual harassment in Australian workplaces (2018).

As research has demonstrated that gender imbalance and inequality are central to the perpetuation of unsafe workplaces for women, additional data collection on MoP(S) staff, which indicates the gender and diversity of peoples holding positions of seniority, must also be published. This will be a significant contribution to transparency in government, as well as reform of parliamentary workplaces.

Accompanying annual reporting on complaints of sexual assault, sexual harassment and bullying, there should be regular surveys which seek to capture workplace experience. When compared to complaint data, such surveys may document incidents that have not been reported due to fear of retribution such as loss of employment. They may also capture the voices and sentiments of bystanders. Regular surveys also serve to capture a baseline of overall employee satisfaction and security within their working environment which can then be matched with data on complaints, revealing the level of confidence in complaint handling and effectiveness of the systems that have been implemented.

Responsibility

The Parliament of Australia must also take responsibility for the workplace culture within its workplaces. The Presiding Officers should mandate a whole-of-parliament review that considers gender equality in parliamentary leadership, infrastructure, culture, and legislative and oversight processes, using toolkits produced by international bodies such as the Inter-Parliamentary Union and the OECD. Recommendations from such reviews should feed into mainstream reforms of standing orders, human resource policies, as well as corporate and strategic plans.

The Parliament of Australia, like others, should make a public commitment to gender equality through a Gender Equality Action Plan, and devote personnel and resources to its implementation.

Training

Putting new institutional and structural settings in place to hold those working in Parliament to account for their behaviour must be accompanied by training – both on preventing harassment and bullying and the implementation of the code, but also on office management and workplace roles and responsibilities.

Anti-harassment training has been implemented in the Canadian House of Commons as part of a longstanding process seeking to prevent and address harassment, with more recent amendments making this training mandatory for staff and MPs. While Canada's early action in this area is to be applauded, the experience has shown that the type of training provided is crucial to its success. Issues around whether training is provided online or in-person, and the relevance of the scenarios to gender-based harassment can seriously reduce its effectiveness. The importance of involving gender-based violence experts in both policy creation and in training is a key lesson for jurisdictions like Australia when introducing similar policies.

In addition to mandating anti-harassment training and ensuring all those working in parliament understand their obligations and responsibilities under the code of conduct, proper induction and training on broader workplace roles and responsibilities are also required. While most workplaces require staff to undertake compulsory training and induction processes, the complex and unclear arrangements for both employing parliamentarians and their staff make these even more important in parliamentary settings.

It is only when people clearly understand their responsibilities and their rights that the workplace culture and its safety will improve.

Conclusion

Our submission has been prepared through a participatory process, drawing on the experience of many current and former politicians and political staffers as well as the experience of overseas parliaments in addressing issues of workplace harassment, sexual harassment, and bullying.

We believe that the time has well and truly arrived for the Australian Parliament to overcome its previous reluctance concerning a binding code of conduct covering all those in parliamentary workplaces. We need to catch up with international standards and ensure our parliamentary workplaces become models of fair and accountable employment practices and worthy of community trust.

Endorsements

The above submission is endorsed by:

Dr Kerryn Baker, The Australian National University

Natalie Barr, Global Institute for Women's Leadership, The Australian National University

Frances Crimmins, CEO, on behalf of the YWCA Canberra

Marnie Cruickshank, PhD Candidate, Griffith University

Caitlin Figueiredo, CEO on behalf of Jasiri Australia

Fiona Gill, Student, The Australian National University

Professor Susan Harris Rimmer, Policy Innovation Hub, Griffith University

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Emerita Professor Carol Johnson, FASSA, University of Adelaide

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Dr Sonia Palmieri, The Australian National University

Professor Tracey Raney, Ryerson University

Professor Elizabeth Reid AO, FASSA, FAIIA, The Australian National University

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Carol Schwartz AO, Chair of Women's Leadership Institute Australia and founder of Pathways to Politics Program for Women

Michelle Staff, Global Institute for Women's Leadership, The Australian National University

Caterina Sullivan, on behalf of Strategic Sustainability Consultants

Professor Helen Sullivan, President of the Australian Political Studies Association

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